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TAGS: [MOPS](#) [MCAP](#) [PTER](#) [MARR](#) [PGOV](#) [PREL](#) [CO](#)
SUBJECT: CONTROVERSIAL RULING WOULD REDUCE COLOMBIA'S
COMBAT FORCE BY HALF

Classified By: Political Counselor John Creamer
Reasons 1.4 (b and d)

SUMMARY

¶1. (C) In a controversial ruling, the Colombian Council of State held that conscripted soldiers cannot engage in combat operations. The military leadership publicly criticized the Council's ruling, arguing that it would effectively remove half of the country's soldiers from combat and would prove "fatal" to the armed forces. Defense Ministry (MOD) officials later met with the Council to ask them to reconsider the decision, and said Council members would likely revisit the case. MOD officials have taken no action to implement the Council's ruling, because they believe it will be revised. End Summary.

COUNCIL RULES CONSCRIPTS CAN'T ENGAGE IN COMBAT

¶2. (SBU) On February 25, the Colombian Consejo de Estado (Council of State), the country's highest administrative court, issued a controversial ruling with potentially far-reaching adverse consequences on military combat operations. The Council held that conscripts should not engage in combat operations, intelligence work, or any other activity that could expose them to enemy fire. The Council noted conscripts should be treated differently from professional soldiers, who volunteer for military service and receive combat training. The ruling cited Law 48 of 1993, which states that conscripts should be directed to "carry out social welfare activities to benefit the community and environmental and ecological conservation works."

¶3. (SBU) The case concerned a conscripted rural (campesino) soldier, Wilson Guzman, who was ordered by his battalion commander to conduct tactical intelligence operations against the FARC in Caqueta department. On the evening of June 15, 1994, Guzman was attacked in his house by FARC fighters, who shot him in the neck and arm. The Council noted that Guzman had received no intelligence training and was unarmed at the time of the attack. The Council ruled that Guzman's battalion commanders were responsible for his injuries since they placed him in an inherently dangerous situation with inadequate training.

¶4. (SBU) If implemented, the Council's ruling would have a significant, adverse impact on the military's combat

operations. As of March 2009, there were approximately 210,000 soldiers in the Colombian armed forces. Of those, approximately 124,000 were conscripts and only 86,000 were professional soldiers. Conscripted soldiers include regular soldiers (conscripts without a high school degree), drafted high school graduates (bachilleres), and rural (campesino) soldiers who serve in their home regions.

MILITARY CRIES FOUL

15. (SBU) The ruling provoked an immediate public outcry from Colombian military leaders. Colombian Armed Forces Commander Freddy Padilla argued that conscripts make up more than half of the total military forces and that not allowing them to engage in combat would be a serious blow to military operations. Defense Minister Juan Manuel Santos said on April 30 that he hoped the decision was an error, because otherwise the effect would be "fatal" to the armed forces.

16. (SBU) In a May 9 article in "Semana" magazine, security analyst Alfredo Rangel said the Council's ruling was irresponsible, incorrect and amounted to judicial populism. He argued that military conscription is an established international practice and that Article 216 of the Constitution requires all Colombians to take up arms when necessary to defend national independence and public institutions.

COUNCIL ASKED TO RECONSIDER RULING

17. (C) Ministry of Defense (MOD) legal defense chief Sonia Clemencia Uribe told us that MOD officials recently met with

the Council and asked them to annul the ruling or at least limit its scope. She said the Council had clearly mis-interpreted law 48 of 1993, since the ruling failed to mention that the law--in addition to directing conscripts towards social and environmental work--also states that all conscripts have "duties of military training and other obligations inherent to soldiers." The latter would include combat operations. Still, she noted that as a long-standing policy, bachilleres--unlike other types of conscripted soldiers--are not required to engage in combat.

18. (C) Uribe said that in the meeting, Council members admitted to MOD officials that they had mis-interpreted the law and that the case would likely be revisited. She noted that the MOD had taken no steps to comply with the ruling, other than to begin the process of issuing compensation to the plaintiff in the case. MOD contends that the ruling only applies to the specific individual in this case. In a public statement on May 12, then Defense Minister Santos emphasized that the Council's ruling did not have the far-reaching impact on combat operations previously reported in the press.

CONSCRIPTION LAWS FAVOR URBAN ELITE

19. (SBU) Colombia's conscription laws have long been criticized as favoring the urban elite. For example, high school graduates (bachilleres), who are more concentrated in urban areas, are only required to serve 12 months and rarely engage in combat. In contrast, regular and campesino conscripts serve between 18 and 24 months and are often integrated into combat units. Similarly, children of wealthy families can avoid service by entering university or professions that are exempt from the draft. Law 48 of 1993 also permits exemptions to the draft for those who pay a military compensation quota, which is based on family income. In the past, there have also been allegations of wealthy families bribing military recruiters to prevent their children from being drafted.

110. (SBU) In his May 9 article in "Semana" magazine, Alfredo Rangel acknowledged that current conscription laws unfairly target poor, rural and marginalized populations, but insisted that this inequality should be addressed through legislation and not through judicial activism.

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